

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CHRISTOPHER STARLING, ET AL.,

Plaintiffs,

V.

JPMORGAN CHASE BANK, N.A.,

Defendant.

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No. 3:13-cv-777-M-BN

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

After making an independent review of the pleadings, files, and records in this case, and the Findings, Conclusions, and Recommendation of the United States Magistrate Judge dated July 9, 2013, the Court finds that the Findings, Conclusions, and Recommendation of the Magistrate Judge are correct and they are accepted as the Findings, Conclusions, and Recommendation of the Court.

**IT IS, THEREFORE, ORDERED** that the Findings, Conclusions, and Recommendation of the United States Magistrate Judge are accepted. Defendant JPMorgan Chase Bank, N.A.'s Motion To Dismiss is granted, and Plaintiffs Christopher Starling's and Telicia Ann Smith's Complaint is dismissed. The Court dismisses with prejudice Plaintiffs' claims based on: (1) Defendant's lack of authority to foreclose; (2) common law fraud insofar as it is based on Defendant's lack of authority to carry out actions against Plaintiffs; (3) the Texas Debt Collection Act claim alleging Defendant's lack of authority; and (4) the Deceptive Trade Practices Act. The following claims are dismissed without prejudice: (1) common law fraud claim based on alleged misrepresentations as to Defendant's ability and willingness to accept mortgage loan payments and to potentially modify the Note; (2) the Texas Debt Collection Act claim alleging Defendant's

violation of the 30-day notice requirement; and (3) declaratory judgment, injunctive relief, and an accounting.

As for those claims that are dismissed without prejudice, Plaintiffs may file an Amended Complaint within 21 days of the date of this Order. If Plaintiffs fail to file an Amended Complaint within 21 days of the date of this Order, this case will be dismissed with prejudice without further notice.

**SO ORDERED** this 22nd day of August, 2013.

A handwritten signature in black ink, reading "Barbara M. G. Lynn". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

BARBARA M. G. LYNN  
UNITED STATES DISTRICT JUDGE  
NORTHERN DISTRICT OF TEXAS